

From: [Heidi Williams](#)
To: [WB-DWR-SacDeltaComments](#)
Cc: [Aaron Baker](#); [Vincent Gin](#); [Cindy Kao](#)
Subject: Comment Letter – Final Draft Bay-Delta Plan
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Valley Water Comment Letter - Final Draft Bay-Delta Plan - signed -09-18-26.pdf

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Hello,

Please accept the attached letter as Valley Water's comments on the Final Draft Bay-Delta Plan. Thank you for the opportunity to review and provide comments on this important Plan.

Sincerely,

HEIDI WILLIAMS

Pronouns: she/her

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Clean Water · Healthy Environment · Flood Protection



September 18, 2026

State Water Resources Control Board
Division of Water Rights
P.O. Box 100
Sacramento, CA 95812-2000

Submitted Via E-mail: SacDeltaComments@waterboards.ca.gov

Subject: Comment Letter – Final Draft Bay-Delta Plan

Dear Members of the State Water Resources Control Board,

Santa Clara Valley Water District (Valley Water) thanks you for the opportunity to provide comments on the Final Draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan or Plan). Valley Water is the primary water resources management agency for Santa Clara County providing water supply, flood protection, and environmental stewardship for the nearly 2 million people of Santa Clara County, Silicon Valley businesses, and our vibrant agricultural communities. Our agency was founded in 1929 in response to overdrawn groundwater basins and severe land subsidence. Our contracts for Delta supplies were critical in reversing this trend. Every day, our county relies on a mix of local and imported water to meet our community's water needs. Approximately 40 percent of our water supplies are conveyed through the Delta by the State Water Project (SWP) and the Central Valley Project (CVP). During droughts, local water supplies are limited, and Valley Water relies on Delta supplies to provide water to our groundwater recharge facilities and drinking water treatment plants.

We recognize the enormous effort it has taken to draft revisions to the Bay-Delta Plan and appreciate the inclusion of the Healthy Rivers and Landscapes (HRL) program pathway. Valley Water supports the goal of improving the Bay-Delta ecosystem and is supportive of a science-based approach to optimizing limited Bay-Delta water supplies. The HRL Program provides a unique opportunity to address critical stressors that the unimpaired flow pathway does not – such as lack of food for native species, predation, and spawning/rearing habitat scarcity. Integrating flow and habitat restoration magnifies their individual benefits, something the Bay-Delta Plan cannot achieve in the absence of the HRL Program.

Valley Water is a member of the State Water Contractors, Inc. (SWC), San Luis & Delta-Mendota Water Authority (SLDMWA), and Association of California Water Agencies (ACWA), and we encourage the State Board to carefully review the comment letters of these organizations.

The Final Draft Plan's CVP & SWP HRL base flow balancing provisions are inconsistent with the 2022 VA Memorandum of Agreement

The new base flow balancing provisions are inconsistent with the 2022 Memorandum of Understanding Advancing the Voluntary Agreements ("2022 MOU"). In the 2022 MOU, the CVP and SWP committed to specific export reductions above restrictions imposed by their ESA and CESA permits. The 2022 MOU recognized that these ESA and CESA terms could change as science advances and the regulatory agencies gain a better understanding of what actions do, and do not, benefit the protected



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fish species. The MOU was signed by the California Natural Resources Agency, the California Department of Fish and Game, the California Environmental Protection Agency, the Department of Water Resources, and the U.S. Bureau of Reclamation, as well as water users up and down the state. Now, the Plan instead abandons this concept of specific export reductions in favor of a promise to guarantee a certain amount of Delta outflow regardless of changes in the Projects' ESA and CESA permits, a concept that is not based on sound scientific reasoning.

Valley Water does not believe it is appropriate to continue shifting the goal posts for the HRL parties who committed to the export reductions, nor do we believe that this can be overcome by the text allowing the SWP and CVP to submit a proposed temporary or interim plan to alter SWP or CVP operations. The State Water Board should honor the commitment of HRL parties to a specific export reduction additive to that required by D-1641 and their ESA & CESA permits and utilize adaptive management and sound science as the mechanism for identifying and addressing relevant changes.

There should not be an arbitrary rule that HRL does not apply to “changes” in the exercise of existing water rights by HRL parties nor an arbitrary rule that Water Supply Adjustments do not apply to new water rights

The Plan states that the HRL program is only applicable to the HRL water rights “as they are being exercised at the time of Plan adoption by the State Water Board”. Similarly, the Plan details that new water supply projects, defined as those obtained after December 31, 2025, will be subject to the unimpaired flow requirements without Water Supply Adjustments (WSAs).

No rationale for these cutoff dates is provided, and they are not supported by science. Further, the default imposition of unimpaired flow requirements on a water right change petition, which may simply involve changing a point of diversion or type of use, does not make sense given that the underlying water right will already be subject to either unimpaired flow or HRL requirements.

Valley Water is very concerned that these limitations will negatively impact our future efforts to sustain Santa Clara County's water supply reliability. For example, this puts at risk several of our long-term water supply investments such as the Sites Reservoir Project and the Delta Conveyance Project.

We respectfully suggest that these provisions should be removed from the revised Final Draft Bay-Delta Plan.

The proposed requirement in the Staff Report for future year repayment of HHS water is inconsistent with California public policy and should be removed

The Staff Report includes new text proposing a future-year “repayment” of water when HRL export reductions cannot be provided due to minimum human health and safety needs (Final Staff Report, p. 13.3-18). The provision should be eliminated. It is contrary to State policy, which holds that water is the “property of the people of the State” and that the “use of water for domestic purposes is the highest use of water.” Wat. Code § 102, 106. This provision would punish a water rights holder for providing human health and safety water during an emergency. Requiring “repayment” later could stack obligations in another constrained year, exacerbating the hardship that communities would endure during droughts intensified by climate change. This is not only contrary to public policy, it has no scientific basis whatsoever. It was also not part of the 2022 VA MOU and is yet another last minute new proposed staff addition.

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This staff report proposal is not part of the Plan's program of implementation, was not adopted pursuant to formal regulatory process, and its potential impacts have not been analyzed under CEQA. This proposed provision should be removed from the Staff Report.

A written analysis should be provided when the Executive Director exercises his/her discretion to modify Plan requirements

The Final Draft Plan gives the Executive Director widespread authority to make modifications that could meaningfully shape how, when, and to what extent water users are curtailed. To avoid unintended consequences, such decisions need to include meaningful collaboration with HRL parties where applicable and involve a clear decision-making framework. The Bay-Delta Plan should be revised to require public documentation of the scientific basis, rationale, and impacts of any significant modification.

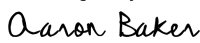
The Plan should clarify that unimpaired flow target curtailments do not apply to HRL parties

The Final Draft Bay-Delta Plan maintains language from the previous draft that curtailment based on water right priority will be used to implement both the unimpaired flow and HRL pathways. Although we support the protection of HRL flows from diversion by others, the revised Plan should clarify that HRL parties will not themselves be subject to imposition of curtailments to meet unimpaired flow requirements. Participation in HRL is the alternate pathway separate from unimpaired flow requirements. Furthermore, HRL parties cannot be curtailed based on water right priority, as senior water rights are contributing flow before all junior water rights are fully expended.

Conclusion

The Bay-Delta Plan update will have far-reaching implications for water supply reliability, environmental stewardship, and State priorities and policies. The State Water Board should revise the Final Draft Plan to ensure consistency with core elements of the Healthy Rivers and Landscapes Program and address concerns with the unimpaired flow pathway. Valley Water appreciates the State Water Board's consideration of these comments.

Sincerely,

DocuSigned by:

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Aaron Baker
Water Utility Chief Operating Officer
Santa Clara Valley Water District